

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:10-cr-28

v.

HON. ROBERT HOLMES BELL

BRIAN SCOTT FISHER,

Defendant.

/

**MEMORANDUM OPINION AND ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

This matter is before the Court on Defendant's objections, (Dkt. No. 41), to Magistrate Judge Greeley's January 11, 2011, Report and Recommendation ("R&R"). (Dkt. No. 40.) In the R&R, the Magistrate Judge recommended that Defendant's Motion to Suppress Evidence, (Dkt. No. 19), be denied. The Court is required to review *de novo* those portions of the R&R to which specific objections are made. 28 U.S.C. § 636(b)(1). The Court may accept, reject, or modify any or all of the Magistrate Judge's findings or recommendations. *Id.*

Though the facts specific to this case are summarized in the R&R, both the facts regarding the Global Positional System ("GPS") device and the legal reasoning regarding whether its use here violates the Fourth Amendment are contained in a report and recommendation prepared for another case assigned to the same Magistrate Judge, *United States v. Walker*, File No. 2:10-cr-32 ("Walker R&R"). *See id.* Dkt. No. 25. As explained

in the R&R, the GPS unit used in this case was the same unit used in *Walker*, and the parties requested that the testimony offered in *Walker* regarding the GPS be considered in this case. (R&R 1.) Counsel in the two cases are likewise the same, and Defendant's legal analysis in his objections is virtually identical to Ms. Walker's legal analysis in her case (it appears that the only changes were substituting references to "Report and Recommendation" for references to "*Walker* Report and Recommendation").

So too, this Court's analysis of both the R&R and the Objections is not altered by the factual differences between the two cases. For the same reasons articulated in the Court's opinion in that case, attached hereto and incorporated hereby,

IT IS HEREBY ORDERED that Defendant's objections (Dkt. No. 41) are **OVERRULED**.

IT IS FURTHER ORDERED that the Magistrate Judge's January 7, 2011, R&R (Dkt. No. 40) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Defendant's Motion to Suppress Evidence (Dkt. No. 19) is **DENIED**.

Dated: February 11, 2011

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE